

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

**SALVADOR COSTILLA and  
GUADALUPE COSTILLA,**

**Plaintiffs,**

**v.**

**AMERICAN SECURITY INSURANCE  
COMPANY,**

**Defendant.**

§  
§  
§  
§  
§  
§  
§  
§  
§  
§  
§

**CIVIL ACTION NO. 16-cv-1063**

**NOTICE OF REMOVAL**

Defendant American Security Insurance Company (“American Security”) files this Notice of Removal against Plaintiffs Salvador Costilla and Guadalupe Costilla (“Plaintiffs”) pursuant to 28 U.S.C. Sections 1441 and 1446, as follows:

**I. COMMENCEMENT AND SERVICE**

1. On July 8, 2016, Plaintiffs commenced this action by filing an Original Petition (“Original Petition”) in the 274th Judicial District Court of Hays County, Texas, styled Cause No. 16-1367; *Salvador Costilla and Guadalupe Costilla v. American Security Insurance Company*.<sup>1</sup>

2. American Security was served August 15, 2016.<sup>2</sup>

3. American Security filed an answer in state court on September 6, 2016.<sup>3</sup>

4. This Notice of Removal is filed within thirty days of the receipt of service of process and is timely filed under 28 U.S.C. § 1446(b).<sup>4</sup> This Notice of Removal is also filed

---

<sup>1</sup> See Exhibit A, Plaintiffs’ Original Petition.

<sup>2</sup> See Exhibit B, Executed Process.

<sup>3</sup> See Exhibit C, Defendant’s Original Answer.

<sup>4</sup> See Exhibit B, Executed Process.

within one year of the commencement of this action, and is thus timely pursuant to 28 U.S.C. § 1446(c).

## **II. GROUNDS FOR REMOVAL**

1. Standard Guaranty is entitled to remove the state court action to this Court pursuant to 28 U.S.C. §§ 1332, 1441 and 1446 because this action is a civil action involving an amount in controversy exceeding \$75,000.00 between parties with diverse citizenship.

## **III. DIVERSITY OF CITIZENSHIP**

2. This is an action with complete diversity of citizenship between Plaintiffs and Defendant.

3. Plaintiffs are citizens of Texas.<sup>5</sup>

4. Defendant Standard Guaranty is a foreign insurance company.<sup>6</sup>

5. No change of citizenship has occurred since commencement of the state court action. Accordingly, diversity of citizenship exists among the proper parties.

## **IV. AMOUNT IN CONTROVERSY**

6. A defendant who is served with a pleading requesting an indeterminate amount of damages has two options. The defendant may (1) remove the case immediately, if it can reasonably conclude that the amount in controversy exceeds \$75,000.00, or (2) the defendant may wait until the plaintiff expressly pleads that the amount in controversy exceeds that amount or serves some “other paper” indicating that the amount in controversy exceeds that amount. U.S.C. § 1446(b)(3); U.S.C. § 1446(c)(3)(A); *Bosky v. Kroger Texas LP*, 288 F.3d 208, *passim* (5th. Cir. 2002). Here, this case became removable upon the service of Plaintiffs’ Original

---

<sup>5</sup> See Exhibit A, Plaintiffs’ Original Petition., at p. 1; Ex. D-1, Accurant Comprehensive Address Report (demonstrating that Plaintiffs have resided in Texas, at least, since 2004).

<sup>6</sup> See Exhibit E, Affidavit of Jim Kroll.

Petition wherein Plaintiffs asserted that they seek monetary relief over \$200,000.00 but not more than \$1,000,000.00.<sup>7</sup>

**V. VENUE**

7. Venue lies in the Western District of Texas, Austin Division, pursuant to 28 U.S.C. §§ 1441(a) and 1446(a) because Plaintiffs filed the state court action in this judicial district and division.

**VI. CONSENT TO REMOVAL**

8. No Consent to Removal is necessary as American Security is the only named defendant in this lawsuit.

**VII. NOTICE**

9. Defendant will give notice of the filing of this notice of removal to all parties of record pursuant to 28 U.S.C. § 1446(d). Defendant will also file with the clerk of the state court, and will serve upon Plaintiffs' counsel, a notice of the filing of this Notice of Removal.

**VIII. STATE COURT PLEADINGS**

10. Copies of all state court pleadings and orders are attached to this Notice of Removal.

**IX. EXHIBITS TO NOTICE OF REMOVAL**

11. The following documents are attached to this Notice as corresponding numbered exhibits:

- A. Plaintiffs' Original Petition;
- B. Executed Process;
- C. Defendant's Original Answer;
- D. Affidavit of Reed Burritt;

---

<sup>7</sup> See Exhibit A, Plaintiffs' Original Petition, at p. 2.

1. Accurant Comprehensive Address Report;

E. Affidavit of Jim Kroll.

**X. CONCLUSION**

WHEREFORE, Defendant American Security Insurance Company, pursuant to the statutes cited herein, removes this action from the 274<sup>th</sup> Judicial District Court of Hays County, Texas to this Court.

Dated: September 13, 2016

Respectfully submitted,

EDISON, MCDOWELL & HETHERINGTON LLP

By: /s/ Bradley J. Aiken

Bradley J. Aiken

State Bar No. 24059361

Federal Bar No. 975212

First City Tower

1001 Fannin Street, Suite 2700

Telephone: 713-337-5580

Facsimile: 713-337-8850

Brad.aiken@emhllp.com

Reed.burritt@emhllp.com

*ATTORNEYS FOR DEFENDANT*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been served on September 13, 2016, on the following counsel of record by certified mail:

Kevin R. Michaels  
LAW OFFICES OF KEVIN R. MICHAELS, P.C.  
888 W. Sam Houston Pkwy. S., Suite 226  
Houston, Texas 77042  
kmichaels@michaelslaw.net

/s/ Bradley J. Aiken

Bradley J. Aiken